

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

FILED
SEP 03 2013
Clerk, U.S. District Court
District Of Montana
Missoula

DAVID STEVEN BRAUN,

Plaintiff,

vs.

US GOVERNMENT,

Defendant.

CV 13-36-BU-DWM-JCL

ORDER

This matter is again before the Court upon Plaintiff David Braun's motion for default judgment. Dkt. 21. But again Braun has not shown that his service on the Defendant United States of America was sufficient. As previously explained, service upon the United States must be performed according to the specific provisions of Federal Rule of Civil Procedure 4(i). This procedural rule is strictly construed. *McNeil v. U.S.*, 508 U.S. 106, 113 (1993). As the Court previously explained, among other requirements, Rule 4(i) provides that a party serving the United States must personally serve the United States Attorney and "(B) send a copy . . . by registered or certified mail to the Attorney General of the United States at Washington, D.C." Fed. R. Civ. P. 4(i)(1)(B) (emphasis added). Braun has not established that he sent a copy of the summons and complaint to the

Attorney General by way of registered or certified mail.

On July 8, 2013, Braun filed a document advising the Court, among other things, that he believed he had properly provided a copy of the summons and complaint to the Attorney General. Dkt. 12. He also attached a receipt from the United States Postal Service which indicated that he sent a copy of the summons and complaint to the Attorney General by “Express Mail” – but not certified or registered mail. Dkt. 12, at 4. While Braun appears to have attempted, in good faith, to satisfy the requirement of Fed. R. Civ. P. 4(i)(1)(B), he has not effected proper service. While it may be that the difference between certified/registered mail and express mail may be hyper-technical, the Court has no option but to strictly construe Fed. R. Civ. P. 4(i) and require Braun to use registered or certified mail to send a copy of the summons and complaint to the Attorney General of the United States at Washington, D.C.

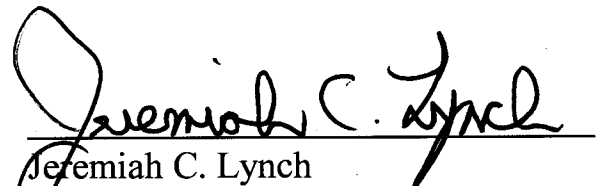
Because it appears the United States Attorney has been properly served in this matter, the Court deems it appropriate, under authority of Fed. R. Civ. P. 4(i)(4)(A), to give Braun until October 10, 2013, to cure his failure to satisfy Fed. R. Civ. P. 4(i)(1)(B) by sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Clerk of Court is directed to strike the September 3, 2013, entry of default (Dkt. 20). Finally,

IT IS ORDERED that Braun's motion for default judgment (Dkt. 21) is DENIED without prejudice.

DATED this 3rd day of September, 2013.


Jeremiah C. Lynch
United States Magistrate Judge